

# REMARKS

In the Office Action, the Examiner rejected claims 1-9, 15-21 and 23-28 under 35 USC § 102(e), and rejected claims 10 and 12 under 35 USC § 103(a). These rejections are fully traversed below.

Claims 1, 3, 4 and 15 have been amended to further clarify the subject matter regarded as the invention. In addition, to expedite prosecution, claim 16 has been cancelled. Thus, claims 1-5, 11, 12, 15, 17-26 and 28 remain pending. Reconsideration of the application is respectfully requested based on the following remarks.

## **REJECTION OF CLAIMS 1-5 UNDER 35 USC § 102(e)**

In the Office Action, the Examiner rejected claims 1-5 under 35 USC § 102(e) as being unpatentable over Kenner et al., U.S. Patent No. 5,956,716. This rejection is fully traversed below.

Kenner et al. describes a system and method for delivery of video data over a computer network. According to Kenner et al., remotely stored audio and video content can be requested and retrieved from a server selected so as to maximize network capacity and minimize transmission delays.

Claim 1, on the other hand, pertains to a method for satisfying a request for content from a web server. Among other things, claim 1 recites, “determining whether a response to the request can be delayed” (claim 1, line 3). Based on this determination, the method either processes the request to obtain the response in an intentionally delayed manner, or processes the request without any intentional delay. Although Kenner et al. at col. 25, lines 41-54 does mention use of a queue that could impose a delay, there is nothing in Kenner et al. that teaches or suggests determining whether a response to the request can be delayed. In addition, Kenner et al. does not teach or suggest that the processing of the request to obtain the response can either be intentionally delayed or not based on the determination of whether the response to the request can be delayed. Still further, claim 1 recites “wherein the response being obtained in the intentionally delayed manner is delayed dependent on at least one of a priority level associated with the request, an amount of data being requested by the request, a type of data and a load or congestion level for the web server.” Kenner et al. references “a short period of time” associated with a queuing time at col. 25, lines 45-48. However, nothing suggests that the queuing time

would be dependent in any way. Hence, Kenner et al. also fails to teach or suggest that a response could be intentionally delayed dependent on an amount of data being requested by the request, a type of data, and a load or congestion level for the web server. Accordingly, it is submitted that the rejection of claim 1 under 35 USC § 102(e) as being unpatentable over Kenner et al. should be withdrawn.

Claim 5 has been amended to substantially include the limitations previously recited in claim 8, though such limitations have been clarified. According to the method of claim 5, a plurality of requests for a particular resource are received. The particular resource is then retrieved from a remote server once for the plurality of requests. Then, the particular resource is sent to the different requestors. Additionally, claim 5 recites, “wherein said retrieving and/or said sending are performed after a predetermined quantity of the plurality of requests have been received.” In the Office Action, the Examiner appears to rely on col. 31, lines 16-20 of Kenner et al. as teaching the use of a predetermined quantity in this manner. In Kenner et al. at col. 31, lines 16-20, there is a discussion of expected or current demand for a particular file. If such file has a high demand, the associated video clips can be moved into random access memory so as to reduce the quantity of disk accesses required to retrieve the highest demand clips. The reason for such is specifically stated in Kenner et al., col. 31, lines 20-22 as: “The use of the RAM buffer 106 will reduce the quantity of disk accesses required to retrieve the highest demand clips.” Hence, such teachings of Kenner et al. do not teach or suggest that the retrieving and/or the sending operations as recited in claim 5 would be performed after a predetermined quantity of the plurality of requests have been received. Furthermore, col. 25, lines 41-45 of Kenner et al. are also deficient in this regard. Therefore, it is respectfully submitted that the Examiner should withdraw the rejection of claim 5 under 35 USC § 102(e) as being unpatentable over Kenner et al.

#### **REJECTION OF CLAIMS 15-21, 23-26 AND 28 UNDER 35 USC § 102(e)**

In the Office Action, the Examiner rejected claims 15-21, 23-26 and 28 under 35 USC § 102(e) as being unpatentable over Barnett et al., U.S. Patent No. 6,356,948. This rejection is fully traversed below.

Barnett et al. describes a method and apparatus for managing data. In particular, the method and apparatus manage and distribute data to multiple destinations. “Data is received from multiple sources (or contributors) and placed into data packets. Data packets are then

distributed across the network or other communication medium to multiple data destinations. The data destinations that desire the type of data within a particular data packet will retrieve the data packet from the network. Other data destinations that are not interested in the type of data within the data packet will not retrieve the data packet. Thus, instead of transmitting a separate data packet to each data destination, embodiments of the present invention transmit a single data packet that is received by multiple data destinations, thereby reducing the number of data packets transmitted.” Barnett et al., col. 1, line 64 to col. 2, line 8.

Claim 15 pertains to a data transmission system for transmitting data from content servers to requestors through a data network. The data transmission system comprises a plurality of data distribution centers. Data transmissions occur between the content servers and the data distribution systems using a multi-destination format so as to reduce congestion.

Claim 15 transmits data from a content server to a data distribution center using a multi-destination format. In contrast, Barnett et al. broadcasts or transmits data packets across a network or other communication medium to multiple data destinations. (Barnett et al., col. 3, lines 8-12.) Here, in Barnett et al., multiple sources (contributors) collect data at a data hub server 20. The hub server 20 then distributes the data to one or more data destinations. FIG. 6 describes a data packet that can be utilized in Barnett et al. The data packet contains a packet header and multiple data elements. FIG. 7 details the packet header. As should be noted, neither the data packet illustrated in FIG. 6 nor the data packet header illustrated in FIG. 7 indicate that multiple-destinations are utilized. Hence, in contrast to that recited in claim 15, Barnett et al. fails to teach or suggest “data transmissions between the content servers and said data distribution centers use a multi-destination format so as to reduce congestion” as recited in claim 15. Still further, Barnett et al. also fails to teach or suggest that “the multi-destination format uses multi-destination data packets, the multi-destination data packets include at least multiple destination fields and a data field” as recited in claim 15. At col. 3, lines 8-22, Barnett et al. states:

Data is received from multiple sources (also referred to as contributors) and placed into data packets. Data packets are then broadcast or transmitted across a network or other communication medium to multiple data destinations. Only those data destinations interested in the type of data within the data packet will actually retrieve the data packet from the communication medium. Each data packet has an identifier that identifies the type or category of data contained within the data packet. The identifier may also identify a particular type or category of data destination

that may be interested in retrieving the contents of the data packet. Thus, rather than transmitting a separate data packet to each data destination, the system described herein transmits a single data packet that is received by the data destinations that are interested in the type of data contained within the data packet.

Barnett et al. transmits a data packet to multiple data destinations, those data destinations interested in the type of data can retrieve the data packet. Neither the data packet illustrated in FIG. 6 nor the data packet header illustrated in FIG. 7 indicate that multiple-destinations have a format that has multiple destination fields. Accordingly, it is respectfully requested that the Examiner withdraw the rejection to claim 15 under 35 USC § 102(e).

Claim 21 pertains to a system for transmitting data through a data network from servers to clients. Again, similar to claim 15, claim 21 recites a plurality of data distribution centers. Additionally, claim 21 recites server modules that “operate to receive data to be transmitted to the clients and to form multi-destination packets to carry the data to at least one of said data distribution centers” claim 21, lines 4-6. In Barnett et al., the multiple data sources (or contributors) provide data to the data hub server 20. However, there is nothing in Barnett et al. that teaches or suggests that the data sources (or contributors) would utilize server modules within servers to operate to form multi-destination packets to carry data to at least one of the data distribution centers. As previously noted, Barnett et al. does not teach or suggest the use of multi-destination packets. Furthermore, claim 21 also recites that the data distribution centers “operate to convert the multi-destination packets into single-destination packets and to deliver the single-destination packets to the appropriate clients.” The Examiner points to col. 2, lines 9-13 of Barnett et al., however, such portion of Barnett et al. merely pertains to normalization of received data into a standard configuration. The normalization is explained in Barnett et al. as pertaining to ordering of the received data such that the normalized data has a particular order or structure that is the same regardless of the source of the data. See Barnett et al., col. 4, lines 47-50. Hence, normalization as described in Barnett et al. fails to teach or suggest the conversion of multi-destination packets into single-destination packets. Still further the Examiner points to col. 3, lines 8-12 of Barnett et al. However, lines 8-12 of col. 3 of Barnett et al. merely pertain to broadcast or transmission of data packets to multiple destinations. Transmission of data packets to multiple destinations can be achieved in various different ways. There is nothing in this portion of Barnett et al. that would teach or suggest the limitations recited in claim 21. Similarly, col. 3, lines 30-33 of Barnett et al. merely indicate that data can be distributed to multiple

destinations. Accordingly, it is respectfully requested that the Examiner withdraw the rejection to claim 21 under 35 USC § 102(e).

Claim 25 pertains to a method for transferring data through a data network from a server to clients. The method recites the transferring of data between the server and a data distribution center using a multi-destination format. As previously noted, Barnett et al. fails to teach or suggest use of a multi-destination format for the transfer of data between a server and a data distribution center. Therefore, it is respectfully requested that the Examiner withdraw the rejection to claim 25 under 35 USC § 102(e).

Claim 28 pertains to a system for sending data over the Internet. Claim 28 also recites use of multi-destination data packets to send a particular resource that has been requested to different requestors. For reasons similar to those noted above, it is submitted that the rejection to claim 28 under 35 USC § 102(e) should be withdrawn. Additionally, it should be noted that claim 28 recites several means-plus elements in accordance with 35 USC § 112, sixth paragraph, and thus consideration of the specification should be made when examining these elements of claim 28.

#### **REJECTION OF CLAIMS 11 AND 12 UNDER 35 USC § 103(a)**

In the Office Action, the Examiner rejected claims 11 and 12 under 35 USC § 103(a) as being unpatentable over Kenner et al. in view of Barnett et al. This rejection is fully traversed above. Given the deficiencies noted above as to both Kenner et al. and Barnett et al., it is submitted that the rejection of claims 11 and 12 under 35 USC § 103(a) should be withdrawn.

Based on the foregoing, it is submitted that claims 1, 5, 12, 15, 21, 25 and 28 are patentably distinct from Kenner et al. or Barnett et al. In addition, it is submitted that dependent claims 2-4, 11, 16-20, 22-24 and 26 are also patentably distinct for at least the same reasons as their corresponding independent claim. The additional limitations recited in the independent claims or the dependent claims are not further discussed as the above-discussed limitations are clearly sufficient to distinguish the claimed invention from Kenner et al. or Barnett et al. Thus, it is respectfully requested that the Examiner withdraw the rejections under 35 USC § 102(e) and § 103(a).

## SUMMARY

It is submitted that claims 1-5, 11, 12, 15, 17-26 and 28 are patentably distinct from the cited references. Reconsideration of the application and an early Notice of Allowance are earnestly solicited.

If there are any issues remaining which the Examiner believes could be resolved through either a Supplemental Response or an Examiner's Amendment, the Examiner is respectfully requested to contact the undersigned attorney at the telephone number listed below.

Applicants hereby petition for an extension of time which may be required to maintain the pendency of this case, and any required fee for such extension or any further fee required in connection with the filing of this Amendment is to be charged to Deposit Account No. 50-0388 (Order No. RCY1P001).

Respectfully submitted,

BEYER WEAVER & THOMAS, LLP



C. Douglass Thomas

Reg. No. 32,947

P.O. Box 778  
Berkeley, CA 94704-0778  
Telephone: (650) 961-8300